

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of Pacific Gas and Electric Company (U 39-E), San Diego Gas & Electric Company (U 902-E), Southern California Edison Company (U 338-E), the California Power Exchange Corporation, and the PX Restructuring Trust for an Ex Parte Order Approving the Wind-down and Dissolution of the PX Restructuring Trust.

Application 01-10-030
(Filed October 19, 2001)

**OPINION APPROVING THE WIND-DOWN
AND DISSOLUTION OF THE PX RESTRUCTURING TRUST****1. Summary**

This decision grants the unopposed application of Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E), Southern California Edison Company (SCE), the California Power Exchange Corporation (Power Exchange), and the PX Restructuring Trust (PX Trust) (jointly, applicants) for Commission approval of the wind-down and dissolution of the PX Trust.¹

¹ The application was filed on October 19, 2001. In Resolution ALJ 176-3075, dated November 8, 2001, we preliminarily categorized this matter as quasi-legislative and determined that a hearing is not necessary.

2. Background

In Decision (D.) 96-08-038, we approved a method for funding the initial development of the California Independent System Operator (Cal-ISO) and the Power Exchange (PX) by authorizing PG&E, SDG&E, and SCE (jointly, utilities) to guarantee an amount not to exceed \$250 million in loans to be taken out by two trusts, the ISO Trust and the PX Restructuring Trust (PX Trust). The ISO Trust and the PX Trust were established to oversee the preliminary development of the ISO and the PX, respectively. We subsequently authorized a \$50 million increase in the loan guarantees. (D.97-11-077.)

In D.97-09-053, we approved an Amended and Restated Trust Agreement dated September 4, 1997 (Amended and Restated Trust Agreement) that terminated the PX Trust's development purpose. This decision also approved the transfer, pursuant to an asset transfer agreement between the Power Exchange and the PX Trust dated September 3, 1997 (Asset Transfer Agreement), of the PX Trust's assets and liabilities (except for the loans incurred by the trust and guaranteed by the utilities) to the Power Exchange.

In D.99-04-045, we instructed the utilities to file a new application requesting the wind-down and termination of the PX Trust once the remaining finance purpose of the PX Trust was removed, i.e., once permanent financing was in place, the loans that were guaranteed by the Utilities were repaid, and the final financial closing under the Asset Transfer Agreement had occurred.

Under the Asset Transfer Agreement, closing was to occur in two stages; an asset transfer closing and a final financial closing. The asset transfer closing occurred with the exchange of the assets and liabilities of the PX Trust for a note from the Power Exchange equal to the amount of the PX Trust's then outstanding obligations under the loan agreements. The Power Exchange subsequently

issued other promissory notes to the PX Trust to cover the Power Exchange's start up and development costs pending the beginning of the market and collection of revenues by the Power Exchange to cover these costs. All notes issued by Power Exchange to the PX Trust were returned to the Power Exchange at the final financial closing. The final financial closing was to occur upon the Power Exchange's retirement (through the acquisition of alternative financing or otherwise) of all of the PX Trust's obligations under the loans.

Applicants state that payoff of the loans triggers the final financial closing under the Asset Transfer Agreement, and thereby triggers the wind-down and dissolution of the PX Trust through the removal of its sole remaining financing purpose. Further, applicants state that the final financial closing of the Asset Transfer Agreement occurred on September 28, 2001. Applicants also inform us that the PX Trust has a zero balance remaining in its accounts, as shown by an independent auditor's final audit of the PX Trust submitted with the application. Applicants request that the Commission waive any further audits that may be required under the Amended and Restated Trust Agreement. Applicants contend that given the completely passive position and zero balance of the PX Trust, any additional audits are unnecessary, and their attendant costs unjustified.

3. Discussion

The Commission should approve the wind-down and dissolution of the PX Trust because the remaining financing purpose of the PX Trust has now been completed. The verified application indicates that on January 4, 2001, the Power Exchange made its final payment which retired the PX Trust's loan obligations and which permitted final financial closing under the Asset Transfer Agreement. Final financial closing of the Asset Transfer Agreement occurred on

September 28, 2001. According to the financial statements and independent auditor's report filed by applicants, the PX Trust has no remaining assets or liabilities. Power Exchange's repayment of the loans to the PX Trust has extinguished the loan guarantees provided by the utilities.

Under these circumstances, we find that the wind-down and dissolution of the PX Trust is appropriate at this time and we approve these actions. For all of the foregoing reasons, we grant the application for approval of the wind-down and dissolution of the PX Trust, effective immediately.

4. Final Categorization and Waiver of Review Period

Based on our review of this application, we conclude that there is no need to alter the preliminary determinations as to categorization and need for a hearing made in Resolution ALJ 176-3075 (November 8, 2001). Moreover, since this proceeding is uncontested and we grant the relief granted, pursuant to Section 311(g)(2), the otherwise applicable 30-day period for public review and comment will be waived.

5. Assignment of Proceeding

Susan P. Kennedy is the Assigned Commissioner and Joseph DeUlloa is the assigned Administrative Law Judge in this proceeding.

6. Findings of Fact

1. The PX Trust was formed to oversee the development of the Power Exchange.
2. Under our previous decisions, the PX Trust obtained loans, which were guaranteed to finance the development and initial costs of the Power Exchange.

3. Repayment of the loans by Power Exchange to the PX Trust would extinguish the loan guarantees provided by the utilities, so that the PX Trust would wind-down and terminate.

4. The loans incurred by the PX Trust have been repaid, and the utilities' loan guarantees have been extinguished.

5. The independent auditor's report and financial statements submitted with the application show that the PX Trust has no remaining assets or liabilities.

7. Conclusions of Law

1. Necessary conditions for the wind-down and dissolution of the PX Trust have been met.

2. The PX Trust should be wound down and terminated.

3. This decision should be effective today in order to allow the wind-down and dissolution of the PX Trust.

4. Public review and comment regarding today's decision may be waived, as it grants an uncontested application.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company, San Diego Gas and Electric Company, Southern California Edison Company, the California Power Exchange Corporation, and the PX Restructuring Trust (PX Trust) (jointly, applicants) shall take any remaining steps necessary to wind-down and dissolve the PX Trust.

2. Applicants shall file with the Director of the Energy Division appropriate documentation that confirms the wind-down and dissolution of the PX Trust with the Commission within 90 days of this order. These filings shall be in the form of a report to the Energy Division Director, and shall not be submitted as an advice letter.

3. This proceeding is closed

This order is effective today.

Dated _____, at San Francisco, California.